

These Points are desired to be determined in the A D M I R A L L Court, although the agreement touching the same were made upon the Land.

I. Mariners Wages.

Reasons,



1. Because if Marriners should be constrained to sue at Law, every Mariner must be enforced to a severall action; whereas by the course of the Admiralty all the Marriners may joyn in one Petition.
2. Because the necessity of a Marriners condition requires a summary dispatch, which is accordingly provided for by the course of the Admiralty, but not provided for by the Common Law.
3. By the course of Common Law the remedy for the Marriners is only against the Contractor, which may be absent or insolvent; Whereas by the Admiralty he hath remedy against the Ship; and Freight due.
4. By the Laws and course of the Admiralty, the Mariner hath the Oath of the Contractor to discover the Contract, which is usually private, which he cannot have by the course of Common Law, but must prove that by witness.

II. Contracts of Affraightment by Charter-parties or otherwise.

Reasons,

1. Because there is a necessary relation and dependance between Freight and Wages, and therefore of necessity must belong to the same Judicatory.
1. Usually the Wages is paid out of the Freight.
2. There be divers Cases wherein the Marriners Wages are defaulked or abated in respect of the abatement of Freight, as in case of losse or spoiling the Merchants goods, and therefore fit both to be examined in the same Court;
2. Because of inconvenience, if Freight and Wages should belong to severall Judicatories.
1. The Mariner shall have a speedy remedy against the Master or Owner for his Wages, but the Owner put to a long suite to recover the Freight which should defray the Wages.
2. The Owner shall be enforced to pay full Wages where there may be just cause of defaulcation of Wages in respect of the Merchants losse, which cannot be discovered till the Merchant judiciously prove it.
3. The defaulcation of the Marriners Wages in case of losse or damage of the Merchants goods, is the greatest ingagement of care and fidelity upon the Marriners, and therefore, if they shall recover their full Wages, before examination of the Merchants damages, which cannot be put upon the suite for Freight, this ingagement will be wholly lost;
4. Otherwise the Owner may lose his Ship for non-payment of Wages, before he can possibly recover his Freight which should discharge it.
3. Because there are many Cases wherein there is a necessity to depart from the Letter of the Charter-party, otherwise the Merchant, Master, and Owner may be ruined; thus the Lawes and course of the Admiralty doth permit, the course of the Common Law doth not.

For instance,

1. Contract is made for six months, payable monthly by the Charter-party.
Yet, if within the time the Ship be impounded, no Freight shall be paid for that time.
2. The Freight may be beyond or upon the sea, and cannot be recovered if the Master be insolvent, whereby the party is immediately liable to the Lawes and course of the Admirall Court, the goods may be attached, and upon default condemned for the payment of Freight, which is the great security of the Master and Owner.
3. The Freight of one Voyage is the supply of another, and therefore requires a summary dispatch for the advancement of Trade and Navigation, which is settled by the Lawes and course of the Admiralty, but cannot be by the course of the Common Law.
4. The proofs in such cases, are most commonly by Sea-men, or Persons residing beyond Sea, who are examinable by Commission in the Admiralty; but by course of Common Law must punctually attend the tryall which in most cases is impossible.
5. By the Statute of 32. H.8. Cap. 14. a summary remedy is given to the Merchant upon Charter-parties, and therefore necessary that the Owner should have the like reciprocall remedy, being it is but one Contract.

III. Suits against the Ship, for building, repaying, victualling, and furnishing thereof.

Reason,

By the Admirall Law, the Ship which is always responsible, is liable in such cases; but by the Common Law the person is only liable, not the Ship, so that if the Builder, Repairer, Victualler, or Furnisher, should be constrained to sue at Common Law, he should lose his only security, without which he will neither build, repair, victuall, or furnish, and so Navigation perish.

IV. Suits upon Bills of Bottomry.

Reason,

By the Common Law, the Master cannot pawn the Ship for necessaries, and so the Voyage lost, but by the Lawes of the Admiralty the Ship is chargeable upon these Bills, and thereby the Voyage performed. Therefore if the Admirall jurisdiction should be obstructed in this, a necessary expedient of Navigation should be utterly lost.

Casual damages by one Ship to another in Navigable Rivers, or by Anchors.

Reason,

The utmost remedy that the Common Law gives, is against the Master or Marriners, which are many, insolvent, unknown, or absent, in all which cases, the Lawes used in the Admirall Court, gives remedy against the Ship, which is an ingagement of care upon all that are in it, or belong to it.

Maritime or Merchant Contracts made beyond the Sea.

Reasons,

1. Because the witnesses cannot personally attend at a tryall at Common Law, but may be examined by Commission in the Admiralty.
2. Because the Customs of those Countries wherein these Contracts are made, do differ from these Rules, by which the Common Law proceeds, but are well known and ruled by the Lawes of the Admiralty.
3. Most of these Contracts are made with persons that live in Foreign parts, who expect to be judged by the Rules of the Lawes of these Countries wherein they contract.

4. Because the Admiralty had anciently Jurisdiction in such cases.

Nuisances in Navigable Rivers; As laying Anchors without Buoyes, riding too many Ships abreast, throwing out Balaft and filth into the River, and the like, tending to the obstruction of those Rivers, and hindrance of Trade and Navigation, all these necessary to be provided for; and accordingly are by the Lawes and course of the Admiralty, but few or none by the Common Law.